

REMARKS

Entry of the foregoing amendments to the application is requested on the grounds that the claims, as amended, patentably distinguish over the cited art of record or, alternatively, place the application in better condition for appeal. The claims more particularly point out and distinctly claim the subject matter which Applicants regard as the invention. No new issues have been added which would require further consideration and/or search, nor has any new matter been added. The claims as amended are believed to avoid the rejections applied in the Final Office Action for reasons set forth more fully below.

The Final Office Action of October 28, 2011 has been received and carefully reviewed. It is submitted that, by this Amendment, all bases of rejection are traversed and overcome. Upon entry of this Amendment, claims 1-10, 19-24, and 26-33 are pending in the application. Claims 1-10 and 19-22 have been withdrawn. Claims 11-18 and 25 have been cancelled. Reconsideration of the claims is respectfully requested.

Claims 23, 24 and 26-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tokie (U.S. Patent No. 6,513,897, referred to herein as "Tokie") in view of Strickley (*Pharmaceutical Research*, Vol. 21, No. 2, pages 201-230, Feb.2004, referred to herein as "Strickley"). Claims 23, 24 and 27-32 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tokie in view of Winnik, et al. (U.S. Patent No. 5,541,633, referred to herein as "Winnik").

At the outset, the Applicants disagree that one skilled in the art would combine Strickley with Tokie. Strickley is not at all related to inkjet printing. While Tokie mentions that his inkjet fluid material may include pharmaceutical additives, he also provides a specific viscosity (Col. 9, lines12-16). It is submitted that one skilled in the art would not be led to randomly select pharmaceuticals and solvents that are outside of the viscosity range specifically provided by Tokie. There is no guidance provided by either of these references to suggest that pharmaceutical compositions (such as those taught by Strickley) outside of Tokie's viscosity range can successfully be

jettied using Tokie's device. For these reasons, the Applicants disagree that one skilled in the art would combine Strickley with Tokie in the manner suggested by the Office.

However, in order to expedite prosecution, independent claim 23 has been amended herein to recite a spectrophotometric device to measure an amount of the pharmaceutical solution that has been dispensed. Support for this revision may be found on page 4, lines 17-26 of the application as filed. None of the cited references teach or suggest a spectrophotometric device to measure an amount of a dispensed pharmaceutical solution. Furthermore, the Applicants submit that none of the cited references discusses evaluating the reproducibility and repeatability of their devices (which can be accomplished with the Applicants' spectrophotometer). As such, it is submitted that one skilled in the art would not be led to include a spectrophotometric device in the device of Tokie, as modified by Strickley and/or Winnik.

For all the reasons stated above, it is submitted that Applicant's invention as defined in claim 23 is not anticipated, taught or rendered obvious by the cited references, either alone or in combination, and patentably defines over the art of record.

If claim 23 is found to contain allowable subject matter, it is again requested that the Examiner also consider claims 1-10 for rejoinder. Claims 1-10 are method of using claims which require all of the limitations of the apparatus as defined in claim 23. Thus, under the requirements of MPEP § 821.04(b), if claim 23 is found to be allowable, it is submitted that claims 1-10 are eligible for rejoinder, and the previous restriction requirement of claims 1-10 should be withdrawn.

It is submitted that the absence of a reply to a specific rejection, issue or comment in the instant Office Action does not signify agreement with or concession of that rejection, issue or comment. Finally, nothing in this amendment should be construed as an intent to concede any issue with regard to any claim, and the amendment of any claim does not signify concession of unpatentability of the claim prior to its amendment.

In summary, claims 1-10, 19-24, and 26-33 are pending in the application. It is submitted that, through this Amendment, Applicants' invention as set forth in these claims is now in a condition suitable for allowance. Should the Examiner believe otherwise, it is submitted that the claims as amended qualify for entry as placing the application in better form for appeal.

Further and favorable consideration is requested. If the Examiner believes it would expedite prosecution of the above-identified application, the Examiner is cordially invited to contact the undersigned attorney at the below-listed telephone number.

Respectfully submitted,

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